

Date: August 7, 2023

Date Minutes Approved: 10/02/23

TOWN CLERK

2023 OCT -3 PM 2: 15

DUXBURY, MASS.

SELECTBOARD

OPEN SESSION MINUTES

Present: Cynthia Ladd Fiorini, Chair; Michael McGee, Vice Chair (Open Session only); Amy M. MacNab, Clerk; Fernando Guitart; and Brian E. Glennon, II

Staff: René Read, Town Manager; and Nancy O'Connor, Executive Assistant

Others:

CONVENED IN OPEN SESSION (*in-person and Via remote participation by Zoom*)

1. **CALL TO ORDER** This meeting was called to order at approximately 6:30pm. Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. A transcript or other comprehensive record of proceedings will be available as soon as possible after the meeting. Members of the public who wish to watch the meeting may do so by viewing the Duxbury Government Access Channels – Verizon 39 or Comcast 15. Viewers can visit www.pactv.org/duxbury for information about Duxbury programming including streaming on Duxbury You Tube, to watch replays and Video on Demand.

2. **PLEDGE OF ALLIGIANCE**

3. **6:30PM EXECUTIVE SESSION - King Caesar Fund Matter**

Mr. Guitart moved that we go into Executive Session for the purpose of discussing a King Caesar Fund case, which is of a confidential nature, as the fund's purpose is to provide medical relief for the financially-needy residents of Duxbury, if the Chair so declares that an open meeting may have a detrimental effect due to medical confidentiality in accordance with Mass. General Laws Chapter 30a, Section 21; and upon completion of this Executive Session to reconvene in Open Session at or about 7:00 PM.

"Ms. Ladd Fiorini, as Chair, declared the necessity for Executive Session regarding the King Caesar Fund case due to medical confidentiality."

Seconded by Mr. Glennon Roll Call Vote: Ms. Ladd Fiorini-Aye; Mr. Guitart-Aye; and Mr. Glennon-Aye (Ms. MacNab had not yet arrived)

After the discussions were completed, Mr. Guitart moved that the Selectboard adjourn the Executive Session and re-convene in Open Session on or about 7:00pm.

Seconded by Mr. Glennon Roll Call Vote: Ms. Ladd Fiorini-Aye; Ms. MacNab-Aye; Mr. Guitart-Aye; and Mr. Glennon-Aye

4. OPEN FORUM

Town Manager's Report –

Duxbury Beach Update

Today I was advised by the DBR of the following:

Currently, we have 46 pairs of Piping Plovers on the beach, with 5 broods of chicks, and 19 broods that have fledged. To date, we have lost 20 nests and 14 broods.

Least Terns

There are Least Terns nests being incubated with hatch dates around the corner and Least Terns chicks are observed throughout all of the colonies. The chicks range in age from 0-5 days to 25+.

Crossovers, Dog Areas, and Sensitive Wildlife Areas

Recreational activity south of Powder Point Bridge is open. All pull-outs are currently open. Crossover 1 is open to limited vehicle access to 25 cars. Crossover 2 is closed due to Avian setbacks overlapping with the crossover. Crossover 3 is open to limited vehicle access to 98 cars. State and federal regulations prohibit vehicles within the mandated setbacks without an escorting permit.

Dogs are allowed at Duxbury Beach. Currently, leashed dogs are allowed in parking lots, roadways, and within the same boundaries oceanside that are open to OSV driving. Sensitive Wildlife Areas are still in effect in some locations on the beach. Beachgoers are invited to set up and enjoy these areas, please be sensitive to the chicks that are also using the beach. Driving, riding and biking and large recreational games are prohibited in these areas. Games and ball throwing are allowed in these areas if the activity does not directly impact active Piping Plover or Least Tern Chicks. If the game is near a brood a Shorebird Monitor may ask beachgoers to relocate to a different area.

After the DBR's article in the Clipper ran, many of DBR's Shorebird Monitors have had visitors come up to them and express sympathy for what they have been going through this season. We thank those people for the support, and many of the shorebird monitors expressed gratitude for hearing positive messages from the community.

Planning Department Update

Chris Ryan submitted to me a Letter of Resignation, effective August 25, 2023. He has accepted the position Director of Planning with the Town of Belmont – only 12 minutes from his home - and will be starting on September 5th. His last day in the office here in Duxbury will be Friday, August 25. We have all enjoyed working with Chris and he made some terrific contributions in a very short time and he will be sorely missed. We all wish him our sincerest good luck on his future endeavors.

Mr. Guitart added that this will be a huge whole to fill and wished Mr. Ryan all the best. He made a big impact in a short period of time.

Mr. Glennon stated that one of our recent Eagle Scouts, Nadia Sovick, had enlisted in the U.S. Navy and will be shipping out to basic training this week, and she signed up to be a culinary specialist on a submarine. We wish her well.

Mr. Glennon said that he ran into Joe Grady (previous Conservation Administrator) at the Transfer Station, and he recently became a grandfather last week and wished him congratulations.

Ms. Cris Luttazi, Executive Director of the DBR, provided an update on the oversand access. They are excited to announce that oversand beach access is expanding creating more opportunities for the public to enjoy the beach. Currently crossovers 1 and 3 are open and have worked diligently to allow as much access as the permit allows with piping plovers and least terns in the area. These openings would not have been possible without our aggressive efforts last fall to amend out State certificate to reduce the setbacks for unfledged least tern chicks by half of what the State mandated. In the next days/weeks, the areas should be expanded as birds fledge or move further away.

Ms. MacNab asked if the loss of 20 bird nests was typical. Ms. Luttazi replied that was not typical, but there was a big storm which took out the nests, and the birds are less successful when they re-nest.

5. NEW BUSINESS

7:05pm – Water & Sewer Commissioners – Marshfield Water Commitment #2 FY23

Ms. MacNab moved that the Selectboard adjourn the meeting in order to meet as the Water & Sewer Commissioners, with the intent of re-convening as the Selectboard afterward.

Seconded by Mr. Glennon Roll Call Vote: Ms. Ladd Fiorini-Aye; Ms. MacNab-Aye; Mr. McGee-Aye; Mr. Guitart-Aye; and Mr. Glennon-Aye

This is the commitment to collect the amount billed to the Town of Marshfield for Marshfield Residents receiving Duxbury Water.

Ms. MacNab moved that the Board of Water & Sewer Commissioners instruct the Treasurer to collect the total amount of **\$10,911.04** for water charges for Commitment M-2023-2.

Seconded by Mr. Glennon Roll Call Vote: Ms. Ladd Fiorini-Aye; Ms. MacNab-Aye; Mr. McGee-Aye; Mr. Guitart-Aye; and Mr. Glennon-Aye

Ms. MacNab moved that the Board adjourn their meeting as Water & Sewer Commissioners and re-convene as the Selectboard.

Seconded by Mr. Glennon Roll Call Vote: Ms. Ladd Fiorini-Aye; Ms. MacNab-Aye; Mr. McGee-Aye; Mr. Guitart-Aye; and Mr. Glennon-Aye

Discussion regarding Order of Layout – Street Acceptance for Cooper Hill Road

Mr. Chri Ryan, Planning Director, was in attendance remotely. He explained that the Planning Board met on June 12, 2023 and found no issues and voted 6-0-0 to recommend acceptance of Cooper Hill Road. Ms. MacNab asked if the road was built to subdivision rules and regulations. Mr. Ryan responded yes, it was built to specifications.

Ms. MacNab moved that the Selectboard Adopt the Order of Layout of Cooper Hill Road as follows:

“Whereas the Selectboard of the Town of Duxbury, acting pursuant to G.L. c. 82, §§21-24, having deemed that common convenience and necessity require the acceptance of Cooper Hill Road as a Town way, hereby lays out Cooper Hill Road as a public way, all as shown on the plan referenced below, and

Whereas the boundaries of the layout of Cooper Hill Road are shown on a plan entitled “As-Built Plan for Cooper Hill Rd. in Duxbury, Mass.,” dated December 28, 2022, prepared by South Shore Survey Consultants, Inc., which plan was referred to the Planning Board and which plan is hereby adopted as a part of this order, and all land lying within the layout of Cooper Hill Road is hereby laid out as a public way.

The aforementioned plan is hereby forwarded to the Town Clerk for filing and the foregoing layout is hereby reported to the Town for acceptance.

Adopted: August 7, 2023, Town of Duxbury, by its Selectboard.”

Seconded by Mr. Glennon Vote: 5:0:0

Discussion regarding Letter of Support re: MassDEP July 24, 2023 decision tentatively denying Holtec’s application for a permit modification to discharge Pilgrim Station’s radioactively and chemically contaminated wastewater into Cape Cod Bay
Presented by Mrs. Mary Lampert

Mrs. Lampert stated that Mass DEP rested their case on one law (the Ocean Sanctuaries Act), but further explained that she updated the letter to MassDEP to include four related laws (the addition of three - Massachusetts Endangered Species Act (ch 131A), the Crimes Against Public Health Act (ch 270, sec 16) and the Massachusetts Oil and Hazardous Material Release Prevention Act (ch 21E)) and anti-degradation provisions. She also wanted to make clear that the release of waste water would not be insignificant. She added that she hopes that the Selectboard continue to be leaders in this area as the Selectboard kicked started this effort and got other communities to get involved. She mentioned that Scituate had written to the MassDEP and that there are other communities looking to do the same. She encouraged residents to also write letters, which a sample letter can be found at <https://www.saveourbayma.com/> or contact a member of the Nuclear Advisory Committee.

Ms. MacNab appreciated the revisions to the letter and read the letter in its entirety into the record as follows:

Ms. Cathy Coniaris
MassDEP Surface Water Discharge Program
100 Cambridge Street
Boston, MA 02114

Re: Pilgrim Nuclear Power Station – DEP's Tentative Determination to Deny Holtec's Application for a Modified Surface Water Permit.

Dear Ms. Coniaris:

We write regarding DEP's tentative decision to deny Holtec's application for a modified Surface Water Discharge Permit that would allow it to discharge radioactive and chemically contaminated wastewater into Cape Cod Bay.

In the Selectboard's view, DEP's tentative determination that the requested discharge is prohibited by the Massachusetts Ocean Sanctuaries Act is entirely correct. That Act prohibits the "dumping or discharge of commercial, municipal, domestic or industrial waste" into an Ocean Sanctuary. Cape Cod, Plymouth, Kingston, and Duxbury Bays are all protected ocean sanctuaries.

We suggest that, in its final decision, the DEP should also deny Holtec's requested permit for at least two other reasons.

The first reason is that several other laws, including the Massachusetts Endangered Species Act (ch 131A), the Crimes Against Public Health Act (ch 270, sec 16) and the Massachusetts Oil and Hazardous Material Release Prevention Act (ch 21E) also prohibit Holtec's requested discharge.

The Endangered Species Act prohibits altering the habitat of any endangered or threatened species, including the right whale, roseate tern, least tern, piping plover, and loggerhead turtle that live in and along the shores of Cape Cod Bay, including along Duxbury's coastline. Massachusetts state regulations are explicit: the discharge of waste, wastewater, toxic or hazardous materials shall always be considered alterations of habitat.

The Crimes Against Public Health act prohibits discharging any waste into the waters of the Commonwealth.

Chapter 21E says that anyone who discharges, or threatens to release, any "hazardous material" into any of the "waters of the Commonwealth" is liable to both the Commonwealth and any person damaged by the release or threat.

The second reason is the antidegradation provisions of DEP's own regulations (314 CMR 4) and the Implementation Procedures for the Antidegradation Provisions of the Surface Water Quality Standards. 314 CMR 4.00.

These antidegradation regulations prohibit granting Holtec's requested permit. One regulation prohibits Holtec's discharge unless the department finds the new discharge would be insignificant, and Holtec demonstrates "that the discharge is necessary to accommodate important economic or social development in the [Cape Cod Bay] area." The illegal dumping of 1.1 million gallons of radioactive and chemically contaminated water is not "insignificant." Neither is Holtec's planned discharge necessary – for any reason. Holtec has other NRC-approved ways to dispose of its water; and dumping it into Cape Cod Bay accommodates nothing but Holtec's profit.

The other regulation requires DEP to determine that the discharge is “for the express purpose and intent of maintaining or enhancing” Cape Cod Bay. Holtec’s “express purpose and intent” is to save money; it clearly is not to either maintain or enhance Cape Cod Bay.

In addition to denying Holtec’s application on the basis of the Ocean Sanctuaries Act, DEP’s final determination should deny Holtec’s application for these other reasons also.

Thank you for your time and consideration in this matter. We look forward to your early response.

Respectfully,
DUXBURY SELECTBOARD

Mr. Glennon summarized that this letter from the Selectboard states that we agree with the Tentative Determination the DEP issued, and we also think the DEP should deny it for an additional three other reasons (four in total – statutory and under code 314 CMR4).

Ms. MacNab moved that the Selectboard execute a letter to Ms. Cathy Coniaris of the MassDEP regarding the Pilgrim Nuclear Power Station and the DEP’s Tentative Determination to Deny Holtec’s Application for a Modified Permit. *Seconded by Mr. Glennon* *Vote: 5:0:0*

Endorsement of Authorization to Expend ARPA Funds Related to PFAS

Mr. Read read into the record the following:

Dear Members,

On July 28, I provided Environmental Partners (one of the engineering firms handling our PFAS remediation issues) with the authorization to proceed in order to have EP assist the Town with overall project advice & project management services related to PFAS and in preparing a Drinking Water State Revolving Fund (DWSRF) Project Evaluation Form (PEF). These two tasks are part of four in total which are outlined in the attached letter of agreement for engineering services from Environmental Partners dated June 22, 2023. The purpose of this agenda item is to ask that the Board formally endorse the authorization given to expend ARPA funds related PFAS.

The two tasks total in the amount of \$60,700, the breakdown for which is as follows:

Task 1: PFAS Project Planning & Advice (<i>Time and Expense</i>)	\$44,000
Task 2: PEF Preparation Assistance (<i>Lump Sum</i>)	\$16,700

Mr. Read stated that the breakdown for remaining (uncommitted) ARPA funds were as follows:

Plymouth County:	\$442,004
Town of Duxbury:	<u>\$105,108</u>
Total:	\$547,112

Ms. Ladd Fiorini commented that this is to extend \$60,700 of that total. Mr. Read replied yes.

Ms. MacNab stated that she had a concern, but first pointed out that she had no problem using ARPA funds for this purpose – an identified issue that all are committed to solving. Her concern was whether the Water & Sewer Advisory Board commented on this.

Mr. Read further explained that the expenditure of ARPA funds related to this project had been previously discussed with the Board, most recently at the June 12 meeting during which Environmental Partners provided the Water Master Plan. Mr. Read noted that the authorization to was given to Environmental Partners as August 1st was the deadline to submit the project evaluation to MA DEP to include the Depot treatment well project on the draft intended use plan. He added that Mr. Trahan explained that the chances of getting the funding are slim, but this would get the project on the DEP radar and in 2024, the Town would be more well-positioned to show the need for the project. He noted that this was essentially a strategic funding submission for subsequent years.

Mr. Glennon also mentioned that Mr. Bo Boynton (Water & Sewer Advisory Board) had questions/suggestions regarding PFAS at that last meeting and wanted to be sure that Environmental Partners will address. Mr. Read replied that Mr. Boynton will be attending the meeting on 8/21 and surely will raise those questions with Environmental Partners.

Mr. Guitart, in order to be clear to everybody, stated that the Town has multiple wells, which are contaminated with PFAS. The expenditure is basically \$100m and Mr. Ryan Trahan from Environmental Partners will be the overarching project manager. He is to deliver a project that will be brought back to the Board to determine if they will go to 4ppt or 2ppt (parts per trillion) while also taking into account all of the optimization conversations that Mr. Boynton and others have mentioned to ensure our drinking water has acceptable levels of PFAS. Task number one is the funding for the project. The meeting on August 21 is to describe the project and then moving on from there.

Motion:

Ms. MacNab moved to endorse and approve the authorization granted to use \$60,700.00 in ARPA funds for the overall project advice & project management services related to PFAS and in preparing a Drinking Water State Revolving Fund (DWSRF) Project Evaluation Form (PEF) as outlined in the letter of agreement for engineering services from Environmental Partners dated June 22, 2023.

Seconded by Mr. Glennon Vote: 5:0:0

6. COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS

Ms. MacNab moved that the Selectboard appointment the following:

<u>Board / Committee</u>	<u>Appointment/Re-appointment/Resignation</u>	<u>Term</u>
<u>Duxbury Bay Management Committee</u>		
Jon McGrath	Re-Appointment	06-30-2026
William “Skip” Bennett	Re-Appointment	06-30-2026

Local Historic District Commission

Philip Tuck, Alternate Re-Appointment 06-30-2026

Old Colony Planning Council (Aging)

Alexandra Newcomb, Alternate Appointment 06-30-2026

Seconded by Mr. Glennon Vote: 5:0:0

The following boards/committees have available seats:

<i>Alternative Energy Committee</i>	-	<i>one seat</i>
<i>Economic Advisory Committee</i>	-	<i>one seat</i>
<i>Finance Committee</i>	-	<i>one seat</i>
<i>Nuclear Advisory Commission</i>	-	<i>two seats</i>
<i>Open Space Committee</i>	-	<i>three seats</i>
<i>Seawall Committee</i>	-	<i>two seats</i>

Comments: If anyone is interested in volunteering on a board or committee, you are encouraged to fill out a Talent Bank form, which can be found on the Town's website under the Forms & Documents tab.

7. ONE-DAY LIQUOR LICENSE REQUESTS

Ms. MacNab moved that Ms. Cris Luttazi, Executive Director and as a representative of the Duxbury Beach Reservation, Inc., is granted a One-Day All Alcoholic License to hold their DBR Beach Ball 2023 on Saturday, September 9, 2023 at the Caterer's Parking Lot – Duxbury Beach Park, from 6:30pm to 10:30pm, contingent upon the conditions of the license.

Seconded by Mr. Glennon Vote: 5:0:0

8. MINUTES

Ms. MacNab moved to approve the 7/24/23 Selectboard Executive Session Minutes, with contents to remain confidential until the need has passed.

Seconded by Mr. Glennon Vote: 5:0:0

Ms. MacNab moved to approve the 01/04/23 Selectboard Open Session Minutes, as presented and as amended. *Seconded by Mr. Glennon Vote: 4:0:1 (Mr. Glennon abstained)*

Ms. MacNab moved to approve the 05/08/23 Selectboard Open Session Minutes, as presented and as amended. *Seconded by Mr. Glennon Vote: 4:0:1 (Ms. MacNab abstained)*

Ms. MacNab moved to approve the 06/05/23 Selectboard Open Session Minutes, as presented and as amended. *Seconded by Mr. Glennon Vote: 5:0:0*

9. ANNOUNCEMENTS

- 1) Next Scheduled Selectboard's Meeting will be on Monday, August 21, 2023 at 7:00pm in the Mural Room.

10. ADJOURNMENT

Ms. MacNab moved to adjourn at approximately 8:00pm.

Seconded by Mr. Glennon Vote: 5:0:0

Minutes submitted by Nancy O'Connor

List of documents in Selectboard file:

Selectboard Agenda

Exec Session Motion

Water & Sewer Commissioners Agenda

Water & Sewer Marshfield Commitment #2 FY23

Cooper Hill Road – Order of Layout documentation

Draft Letter to MassDEP

ARPA documentation

Committee Appointments

ODLL

Minutes

Announcements